

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Chapter 11 Cases
	)	
PERPETUA-BURR OAK HOLDINGS OF	)	Case No. 09-34022
ILLINOIS, L.L.C., <i>et al.</i> ,	)	(Jointly Administered)
	)	
Debtors.	)	Hon. Pamela S. Hollis
	)	Hearing Date: 3/20/2012
	)	Hearing Time: 10:00 a.m.

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that on **March 20, 2011 at 10:00 a.m.** or as soon thereafter as counsel may be heard, I shall appear before the **Honorable Pamela S. Hollis**, Bankruptcy Judge, in the room usually occupied by her as a Courtroom in the U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois, or in her absence, before such other Judge who may be sitting in her place and stead and hearing bankruptcy motions, and shall then and there present the **Motion For Entry Of Final Decree Closing Cases**, a copy of which is attached and herewith served upon you, and shall pray for the entry of an order in conformity with the prayer of said pleading.

**AT WHICH TIME AND PLACE** you may appear if you so see fit.

Dated: March 13, 2012

Respectfully submitted,

PERPETUA (CONSOLIDATED), INC.

By: /s/ Brian L. Shaw  
One of its attorneys

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### **CERTIFICATE OF SERVICE**

Brian L. Shaw certifies that he caused to be served a true copy of the above and foregoing **Notice of Motion and Motion For Entry Of Final Decree Closing**, upon the CM/ECF Service List via the Court's electronic filing system on this 13<sup>th</sup> day of March 2012.

/s/ Brian L. Shaw

## **Mailing Information for Case 09-34022**

### **Electronic Mail Notice List**

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

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**UNITED STATES BANKRUPTCY COURT  
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In re:	)	Chapter 11 Cases
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PERPETUA-BURR OAK HOLDINGS OF	)	Case No. 09-34022
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Debtors.	)	Hon. Pamela S. Hollis
	)	Hearing Date: 3/20/2012
	)	Hearing Time: 10:00 a.m.

**MOTION FOR ENTRY OF FINAL DECREE CLOSING CASE**

Pursuant to 11 U.S.C. § 350 and Fed. R. Bankr. P. 3022 and Local Rule 1102, Perpetua (Consolidated), Inc. (“Perpetua”), hereby requests that the entry of a final decree (the “Final Decree”) closing the above-captioned cases (collectively, the “Cases”) except to the extent necessary to maintain jurisdiction as provided for in the Plan and Confirmation Order (the “Motion”). In support of the Motion, Perpetua respectfully states as follows:

**Background**

1. On September 14, 2009 (the “Petition Date”), Perpetua-Burr Oak Holdings of Illinois, LLC, Perpetua Holdings of Illinois, Inc. and Perpetua, Inc. (collectively the “Debtors”) each filed a voluntary petition in this Court under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”).

2. On May 24, 2011, this Court entered an Order Confirming Debtors’ Modified Second Amended Joint Chapter 11 Plan (the “Plan”) and Implementing Discharge and Channeling Injunction (the “Confirmation Order”). *See* Docket No. 899. The Plan became effective on June 16, 2011 (the “Effective Date”).

3. Pursuant to the Confirmation Order, the Debtors were substantively consolidated into Perpetua. Accordingly, all assets and property of the Debtors’ bankruptcy estates, except

those assets transferred to the Perpetua Trust and the BOC Trust, were vested with Perpetua as the consolidated debtor on the Effective Date.

4. The Plan has been substantially consummated, and the estate has been fully administered through the transfer of the Debtors' assets to the Perpetua Trust, the BOC Trust and Perpetua established under the Plan.

**Relief Requested**

5. By this Motion, Perpetua requests that this Court enter a Final Decree closing the Cases.

**Basis for Relief**

6. The estates of the Debtors have been fully administered pursuant to the Plan. In accordance with the Plan, all of the Debtors' assets, including all of the property of the Debtors' estates, have been transferred to the Perpetua Trust, the BOC Trust or Perpetua. In addition, Perpetua has completed all of its obligations under the Plan except for making its final distributions, tax returns and shut down.

7. All of the other remaining responsibilities under the Plan lie with the BOC Trust and Perpetua Trust. It is therefore appropriate to enter a Final Decree at this time.

8. The entry of a Final Decree in the Cases will not prejudice the rights of any creditors of the Debtors under the Plan. The Plan will remain fully operating and enforceable against the Perpetua Trust and the BOC Trust.

**Applicable Authority**

9. Section 350(a) of the Bankruptcy Code provides that after an estate is fully administered "the court shall close the case." 11 U.S.C. § 350(a). Bankruptcy Rule 3022 further provides that:

After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case.

10. The Bankruptcy Code does not define “fully administered.” However, this Court has employed the following factors when determining whether a Chapter 11 case has been fully administered: (1) whether the order confirming the plan has become final; (2) whether deposits required by the Plan have been distributed; (3) whether the property proposed by the plan to be transferred has been transferred; (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan; (5) whether payments under the plan have commenced; and (6) whether all motions, contested matters and adversary proceedings have been finally resolved. *In re Mold Makers, Inc.*, 124 B.R. 766, 768 (Bankr. N.D.Ill. 1990).

11. In the Cases, each of these factors has been satisfied.

12. Not less than seven day notice of the Motion has been provided to the Office of the United States Trustee and those parties on the CMECF service list. Perpetua requests that notice be found sufficient and that any further notice be waived.

WHEREFORE, Perpetua requests that this Court enter an order: (i) granting the Motion; (ii) excusing any further notice of the Motion, (iii) providing for the entry of a Final Decree closing the above-captioned cases subject to this Court's retention of jurisdiction pursuant to the terms of the Plan and Conformation Order; and (iv) granting such other and further relief as the Court deems just and proper.

Dated: March 13, 2012

Respectfully submitted,

Perpetua (Consolidated), Inc.

By: /s/ Brian L. Shaw

One of its attorneys

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